

DO NOT WRITE IN THIS SPACE	
Case 07-CB-236731	Date Filed 2-25-2019

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT					
a. Name UWUA Local 223	b. Union Representative to contact (b) (6), (b) (7)(C)				
c. Address (Street, city, state, and ZIP code) 15160 Commerce Drive North, Dearborn, Mi. 48120-1225	d. Tel. No. 313-271-7978	e. Cell No. (b) (6), (b) (7)(C)			
	f. Fax No. 313-271-9920				
	g. e-mail (b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)			
h. The above-named labor organization has engaged in and is engaging in unfair labor practices within the meaning of section 8(b), subsections (1) and (list subsections) of the National Labor Relations Act, and these unfair labor practices are practices affecting commerce within the meaning of the Act, or these unfair labor practices affecting commerce within the meaning of the Act and the Postal Reorganization Act.					
2. Basis of the Charge (set forth a clear and concise statement of the facts constituting the alleged unfair labor practices) 1. Union refused to file grievance for \$3,000 taken. After employee was paid, Management changed codes to sick. Neither employee or doctors request this. 2) Union refuses to give notes previously promised from biased investigation fraudulent 2018 incident where EMS was called for employee because of management actions. 3) Union has allowed company to violate employee's seniority in a variety of ways. Making excuses for company's actions. 4) Union has allowed company to force employee out of job classification. Despite doctor's saying employee can do job. 5) Union refuses to make corrections to actions that stripped away experience and qualifications. Which allowed lesser/lower seniority, experienced, qualified employees to work.					
3. Name of Employer DTE Energy Corporate Services, LLC	4a. Tel. No. 313-235-8880	b. Cell No.	c. Fax No.		
	d. e-mail gerry.anderson@dteenergy.com				
5. Location of plant involved (street, city, state and ZIP code) Trenton Channel, P.P., 4695 West Jefferson Ave, Trenton, Mi. 48183 Belle River, P.P., 4505 King Rd., China Township, Mi. 48054	6. Employer representative to contact Gerard M. Anderson, CEO				
7. Type of establishment (factory, mine, wholesaler, etc.) Industrial facility	8. Identify principal product or service Electric		9. Number of workers employed +3,000		
10. Full name of party filing charge (b) (6), (b) (7)(C)					
11. Address of party filing charge (street, city, state and ZIP code) (b) (6), (b) (7)(C)		11a. Tel. No. (b) (6), (b) (7)(C)	b. Cell No. (b) (6), (b) (7)(C)	c. Fax No.	
		d. e-mail (b) (6), (b) (7)(C)	(b) (6), (b) (7)(C)		
12. DECLARATION (b) (6), (b) (7)(C) I declare that I have read the above charge and that the statements (b) (6), (b) (7)(C) in the best of my knowledge and belief, (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) Title of representative (b) (6), (b) (7)(C) making charge (b) (6), (b) (7)(C) (Print/type name and title or office, if any) Address (b) (6), (b) (7)(C) Date 2-21-2019 Tel. No. (b) (6), (b) (7)(C) Cell No. (b) (6), (b) (7)(C) Fax No. e-mail (b) (6), (b) (7)(C)					

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 *et seq.* The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 7

Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 300
Detroit, MI 48226

Agency Website: www.nlr.gov
Telephone: (313)226-3200
Fax: (313)226-2090



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February 28, 2019

(b) (6), (b) (7)(C)

Re: Local 223, Utility Workers Union of
America (UWUA), AFL-CIO
(DTE Energy Company)
Case 07-CB-236731

Dear (b) (6), (b) (7)(C)

The charge that you filed in this case on February 25, 2019 has been docketed as case number 07-CB-236731. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

Investigator: This charge is being investigated by Field Attorney Eric S. Cockrell whose telephone number is (313)335-8050. If this Board agent is not available, you may contact Supervisory Examiner Jason E. Knepp whose telephone number is (313)335-8028.

Right to Representation: You have the right to be represented by an attorney or other representative in any proceeding before us. If you choose to be represented, your representative must notify us in writing of this fact as soon as possible by completing *Form NLRB-4701, Notice of Appearance*. This form is available on our website, www.nlr.gov, or from an NLRB office upon your request.

If you are contacted by someone about representing you in this case, please be assured that no organization or person seeking your business has any "inside knowledge" or favored relationship with the National Labor Relations Board. Their knowledge regarding this proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: As the party who filed the charge in this case, it is your responsibility to meet with the Board agent to provide a sworn affidavit, or provide other witnesses to provide sworn affidavits, and to provide relevant documents within your possession. Because we seek to resolve labor disputes promptly, you should be ready to promptly present your affidavit(s) and other evidence. If you have not yet scheduled a date and time for the Board agent to take your affidavit, please contact the Board agent to schedule the affidavit(s). If you fail to cooperate in promptly presenting your evidence, your charge may be dismissed without investigation.

February 28, 2019

Preservation of all Potential Evidence: Please be mindful of your obligation to preserve all relevant documents and electronically stored information (ESI) in this case, and to take all steps necessary to avoid the inadvertent loss of information in your possession, custody or control. Relevant information includes, but is not limited to, paper documents and all ESI (e.g. SMS text messages, electronic documents, emails, and any data created by proprietary software tools) related to the above-captioned case.

Prohibition on Recording Affidavit Interviews: It is the policy of the General Counsel to prohibit affiants from recording the interview conducted by Board agents when subscribing Agency affidavits. Such recordings may impede the Agency's ability to safeguard the confidentiality of the affidavit itself, protect the privacy of the affiant and potentially compromise the integrity of the Region's investigation.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge. The Agency requests all evidence submitted electronically to be in the form it is normally used and maintained in the course of business (i.e., native format). Where evidence submitted electronically is not in native format, it should be submitted in a manner that retains the essential functionality of the native format (i.e., in a machine-readable and searchable electronic format). If you have questions about the submission of evidence or expect to deliver a large quantity of electronic records, please promptly contact the Board agent investigating the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. *NLRB Form 4541, Investigative Procedures* offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Morgan". The signature is fluid and cursive, with a large, sweeping "T" and "M".

Terry Morgan
Regional Director



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February 28, 2019

(b) (6), (b) (7)(C)

Local 223, Utility Workers Union
of America (UWUA), AFL-CIO
15160 Commerce Drive, North
Dearborn, MI 48120-1225

Re: Local 223, Utility Workers Union of
America (UWUA), AFL-CIO
(DTE Energy Company)
Case 07-CB-236731

Dear (b) (6), (b) (7)(C)

Enclosed is a copy of a charge that has been filed in this case. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

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Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit a complete written account of the facts and a statement of your position with respect to the allegations set forth in the charge as soon as possible. If the Board agent later asks for more evidence, I strongly urge you or your representative to cooperate fully by promptly presenting all evidence relevant to the investigation. In this way, the case can be fully investigated more quickly.

February 28, 2019

Full and complete cooperation includes providing witnesses to give sworn affidavits to a Board agent, and providing all relevant documentary evidence requested by the Board agent. Sending us your written account of the facts and a statement of your position is not enough to be considered full and complete cooperation. A refusal to fully cooperate during the investigation might cause a case to be litigated unnecessarily.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at any hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

Procedures: We strongly urge everyone to submit all documents and other materials by E-Filing (not e-mailing) through our website, www.nlr.gov. However, the Agency will continue to accept timely filed paper documents. Please include the case name and number indicated above on all your correspondence regarding the charge.

Information about the Agency, the procedures we follow in unfair labor practice cases and our customer service standards is available on our website, www.nlr.gov or from an NLRB office upon your request. NLRB Form 4541 offers information that is helpful to parties involved in an investigation of an unfair labor practice charge.

We can provide assistance for persons with limited English proficiency or disability. Please let us know if you or any of your witnesses would like such assistance.

Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Morgan". The signature is fluid and cursive, with a large, sweeping "T" and "M".

Terry Morgan
Regional Director

Enclosure: Copy of Charge



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February 28, 2019

Mr. Gerard M. Anderson, CEO
DTE Energy Company
Trenton Channel Power Plant
4695 West Jefferson Avenue
Trenton, MI 48183

Mr. Gerard M. Anderson, CEO
DTE Energy Company
Belle River Power Plant
4505 King Road
China Township, MI 48054

Re: Local 223, Utility Workers Union of
America (UWUA), AFL-CIO
(DTE Energy Company)
Case 07-CB-236731

Dear Mr. Anderson:

Enclosed is a copy of a charge that has been filed in this case. Although this charge is not filed against you, it is necessary for us to obtain information from you to determine whether we have jurisdiction over this case. In the future we may also need to obtain evidence from you concerning the merits of the charge. This letter tells you how to contact the Board agent who will be investigating the charge, explains your right to be represented, discusses presenting your evidence, and provides a brief explanation of our procedures, including how to submit documents to the NLRB.

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proceeding was only obtained through access to information that must be made available to any member of the public under the Freedom of Information Act.

Presentation of Your Evidence: We seek prompt resolutions of labor disputes. Therefore, I urge you or your representative to submit the enclosed Commerce Questionnaire to enable us to determine whether the NLRB has jurisdiction over this dispute. If you recently submitted this information in another case, or if you need assistance completing the form, please contact the Board agent.

If, during the investigation of this matter, the Board agent asks for evidence, I strongly urge you or your representative to promptly present all evidence relevant to the investigation. In this way, the case may be fully investigated more quickly.

We will not honor any request to place limitations on our use of position statements or evidence beyond those prescribed by the Freedom of Information Act and the Federal Records Act. Thus, we will not honor any claim of confidentiality except as provided by Exemption 4 of FOIA, 5 U.S.C. Sec. 552(b)(4), and any material you submit may be introduced as evidence at a hearing before an administrative law judge. We are also required by the Federal Records Act to keep copies of documents gathered in our investigation for some years after a case closes. Further, the Freedom of Information Act may require that we disclose such records in closed cases upon request, unless there is an applicable exemption. Examples of those exemptions are those that protect confidential financial information or personal privacy interests.

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Very truly yours,

A handwritten signature in black ink, appearing to read "Terry Morgan". The signature is fluid and cursive, with the first name "Terry" and last name "Morgan" clearly distinguishable.

Terry Morgan
Regional Director

Enclosures

1. Copy of Charge
2. Commerce Questionnaire

Copy of charge only sent to:

Ms. Renee Moran,
Director of Human Relations
DTE Energy Company
1 Energy Plaza, GO 343
Detroit, MI 48226

Ben K. Frimpong,
Office of the General Counsel
DTE Energy Company
1 Energy Plaza, WCB 6th Floor
Detroit, MI 48226

Eric S. Cockrell **QUESTIONNAIRE ON COMMERCE INFORMATION**

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAMELocal 223, Utility Workers Union of America (UWUA), AFL-CIO
(DTE Energy Company)**CASE NUMBER**

07-CB-236731

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)**2. TYPE OF ENTITY**☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)**3. IF A CORPORATION or LLC**A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS**5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR****6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).****7. A. PRINCIPAL LOCATION:****B. BRANCH LOCATIONS:****8. NUMBER OF PEOPLE PRESENTLY EMPLOYED**

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)A. Did you **provide services** valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$

YES NO

B. If you answered no to 9A, did you **provide services** valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$C. If you answered no to 9A and 9B, did you **provide services** valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$D. Did you **sell goods** valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$E. If you answered no to 9D, did you **sell goods** valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$F. Did you **purchase and receive goods** valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$G. Did you **purchase and receive goods** valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$H. **Gross Revenues** from all sales or performance of services (Check the largest amount)
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.I. Did you **begin operations within the last 12 months?** If yes, specify date: _____**10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?**☐ YES ☐ NO (If yes, name and address of association or group).**11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS**

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

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From: [Ben Frimpong](#)
To: [Cockrell, Eric S.](#)
Subject: CB Charge
Date: Tuesday, March 5, 2019 4:28:33 PM
Attachments: [Labor Relations Document scanned 03-05-2019.pdf](#)

Afternoon Eric:

I hope you've been well.

The attached is a CB charge against Local 223, but I wanted to file an appearance just in case the Region needs anything from the Company.

Charging Party listed our CEO as Company contact and we certainly don't want him bothered with this matter. Please forward all inquiries to me.

Ben K. Frimpong
Expert Attorney
DTE Energy Legal Department
Office: 313-235-6266 | Mobile: 313-434-5561

(b) (6), (b) (7)(C)

Confidentiality Note: The information contained in this email originated from DTE Energy's Legal Department and is exclusively for the intended recipient. It may contain legally privileged information and work product, subject to attorney-client privilege and protected from disclosure. Receipt by anyone other than the intended recipient(s) should not be deemed as a waiver of any privilege. If you are not the intended recipient, any interception, dissemination, distribution or copying is strictly prohibited, and may be subject to criminal and civil penalties. If you have received this email in error, please notify me at 313-235-6266 or by email reply and delete the message and any of its attachments from your system.

Note that this email is not intended to create a contract, a modification to a contract or any legal obligation. A contract, modification or other legal obligation can only be created in a writing signed by an authorized representative of DTE Energy. Unless a specific statement to the contrary is included in this message, neither this information block nor anything else in this message is intended to constitute an electronic signature.



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February 28, 2019

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Terry Morgan
Regional Director

Enclosures

1. Copy of Charge
2. Commerce Questionnaire

Copy of charge only sent to:

Ms. Renee Moran,
Director of Human Relations
DTE Energy Company
1 Energy Plaza, GO 343
Detroit, MI 48226

Ben K. Frimpong,
Office of the General Counsel
DTE Energy Company
1 Energy Plaza, WCB 6th Floor
Detroit, MI 48226

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD
CHARGE AGAINST LABOR ORGANIZATION
OR ITS AGENTS

DO NOT WRITE IN THIS SPACE	
Case	07-CB-236731
Date Filed	2-25-2019

INSTRUCTIONS: File an original with NLRB Regional Director for the region in which the alleged unfair labor practice occurred or is occurring.

1. LABOR ORGANIZATION OR ITS AGENTS AGAINST WHICH CHARGE IS BROUGHT			
a. Name UWUA Local 223		b. Union Representative to contact (b) (6), (b) (7)(C)	
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		d. e-mail gerry.anderson@dteenergy.com	c. Fax No.
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7. Type of establishment (factory, mine, wholesaler, etc.) Industrial facility	8. Identify principal product or service Electric	9. Number of workers employed +3,000	
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12. DECLARATION I declare that I have read the above charge and that the statements (b) (6), (b) (7)(C) are the best of my knowledge and belief. (b) (6), (b) (7)(C) (b) (6), (b) (7)(C) (Print/type name and title or office, if any) Address (b) (6), (b) (7)(C) Date 2-21-2019			
		Tel. No. (b) (6), (b) (7)(C)	
		Cell No. (b) (6), (b) (7)(C)	
		Fax No.	
		e-mail (b) (6), (b) (7)(C)	

WILLFUL FALSE STATEMENTS ON THIS CHARGE CAN BE PUNISHED BY FINE AND IMPRISONMENT (U.S. CODE, TITLE 18, SECTION 1001)
PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing unfair labor practice and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary; however, failure to supply the information may cause the NLRB to decline to invoke its processes.

Eric S. Cockrell **QUESTIONNAIRE ON COMMERCE INFORMATION**

Please read carefully, answer all applicable items, and return to the NLRB Office. If additional space is required, please add a page and identify item number.

CASE NAME

Local 223, Utility Workers Union of America (UWUA), AFL-CIO
(DTE Energy Company)

CASE NUMBER

07-CB-236731

1. EXACT LEGAL TITLE OF ENTITY (As filed with State and/or stated in legal documents forming entity)

2. TYPE OF ENTITY

☐ CORPORATION ☐ LLC ☐ LLP ☐ PARTNERSHIP ☐ SOLE PROPRIETORSHIP ☐ OTHER (Specify)

3. IF A CORPORATION or LLC

A. STATE OF INCORPORATION
OR FORMATION

B. NAME, ADDRESS, AND RELATIONSHIP (e.g. parent, subsidiary) OF ALL RELATED ENTITIES

4. IF AN LLC OR ANY TYPE OF PARTNERSHIP, FULL NAME AND ADDRESS OF ALL MEMBERS OR PARTNERS

5. IF A SOLE PROPRIETORSHIP, FULL NAME AND ADDRESS OF PROPRIETOR

6. BRIEFLY DESCRIBE THE NATURE OF YOUR OPERATIONS (Products handled or manufactured, or nature of services performed).

7. A. PRINCIPAL LOCATION:

B. BRANCH LOCATIONS:

8. NUMBER OF PEOPLE PRESENTLY EMPLOYED

A. Total:

B. At the address involved in this matter:

9. DURING THE MOST RECENT (Check appropriate box): ☐ CALENDAR YR ☐ 12 MONTHS or ☐ FISCAL YR (FY dates)

YES

NO

A. Did you provide services valued in excess of \$50,000 directly to customers outside your State? If no, indicate actual value.
\$B. If you answered no to 9A, did you provide services valued in excess of \$50,000 to customers in your State who purchased goods valued in excess of \$50,000 from directly outside your State? If no, indicate the value of any such services you provided.
\$

C. If you answered no to 9A and 9B, did you provide services valued in excess of \$50,000 to public utilities, transit systems, newspapers, health care institutions, broadcasting stations, commercial buildings, educational institutions, or retail concerns? If less than \$50,000, indicate amount. \$

D. Did you sell goods valued in excess of \$50,000 directly to customers located outside your State? If less than \$50,000, indicate amount. \$

E. If you answered no to 9D, did you sell goods valued in excess of \$50,000 directly to customers located inside your State who purchased other goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount.
\$

F. Did you purchase and receive goods valued in excess of \$50,000 from directly outside your State? If less than \$50,000, indicate amount. \$

G. Did you purchase and receive goods valued in excess of \$50,000 from enterprises who received the goods directly from points outside your State? If less than \$50,000, indicate amount. \$

H. Gross Revenues from all sales or performance of services (Check the largest amount):
☐ \$100,000 ☐ \$250,000 ☐ \$500,000 ☐ \$1,000,000 or more If less than \$100,000, indicate amount.

I. Did you begin operations within the last 12 months? If yes, specify date: _____

10. ARE YOU A MEMBER OF AN ASSOCIATION OR OTHER EMPLOYER GROUP THAT ENGAGES IN COLLECTIVE BARGAINING?

☐ YES ☐ NO (If yes, name and address of association or group).

11. REPRESENTATIVE BEST QUALIFIED TO GIVE FURTHER INFORMATION ABOUT YOUR OPERATIONS

NAME

TITLE

E-MAIL ADDRESS

TEL. NUMBER

12. AUTHORIZED REPRESENTATIVE COMPLETING THIS QUESTIONNAIRE

NAME AND TITLE (Type or Print)

SIGNATURE

E-MAIL ADDRESS

DATE

PRIVACY ACT STATEMENT

Solicitation of the information on this form is authorized by the National Labor Relations Act (NLRA), 29 U.S.C. § 151 et seq. The principal use of the information is to assist the National Labor Relations Board (NLRB) in processing representation and/or unfair labor practice proceedings and related proceedings or litigation. The routine uses for the information are fully set forth in the Federal Register, 71 Fed. Reg. 74942-43 (Dec. 13, 2006). The NLRB will further explain these uses upon request. Disclosure of this information to the NLRB is voluntary. However, failure to supply the information may cause the NLRB to refuse to process any further a representation or unfair labor practice case, or may cause the NLRB to issue you a subpoena and seek enforcement of the subpoena in federal court.



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD

REGION 7
Patrick V. McNamara Federal Building
477 Michigan Avenue, Room 300
Detroit, MI 48226

Agency Website: www.nlrb.gov
Telephone: (313)226-3200
Fax: (313)226-2090

August 30, 2019

(b) (6), (b) (7)(C)

Local 223, Utility Workers Union of
America (UWUA), AFL-CIO
(DTE Energy Company)
Case 07-CB-236731

Dear (b) (6), (b) (7)(C)

We have carefully investigated and considered your charge that Local 223, Utility Workers Union of America (UWUA), AFL-CIO has violated the National Labor Relations Act.

Decision to Dismiss: Based on that investigation, I have decided to dismiss your charge for the reasons discussed below.

You allege that the Union has violated its duty of fair representation by: (1) refusing to file a grievance over the Employer allegedly deducting about \$3,000.00 from your paychecks after management changed codes to sick when neither the employee nor doctors requested such action; (2) failing to provide you with notes concerning your (b) (6), (b) (7)(C) and a (b) (6), (b) (7)(C) 2018, workplace incident; (3) allowing the Employer to violate your seniority rights in a variety of ways and making excuses for the Employer's actions; (4) allowing the Employer to force you out of your job classification; and (5) refusing to make corrections to actions that stripped away (b) (6), (b) (7)(C) seniority, experience, and qualifications, which allowed less senior employees to work.

The investigation revealed that the Union has addressed the various workplace issues you have raised and continues to attempt to do so, including by inviting you to attend meetings at the Union hall to discuss outstanding issues, which meetings you have declined to attend.

As for the Union's asserted failure to provide to you copies of its notes, the investigation revealed that the Union informed you on multiple occasions that the notes in question do not exist. As such, the Union has met its obligation to respond to your request in this regard.

Under the National Labor Relations Act, unions are allowed wide discretion in determining how best to represent employees, absent evidence that their decisions are based upon unlawful considerations, or are otherwise arbitrary, capricious, or in bad faith. The investigation disclosed insufficient evidence to establish that the Union's conduct toward you has been motivated by unlawful considerations or constitutes arbitrary conduct. Accordingly, further proceedings on your charge are unwarranted.

Your Right to Appeal: You may appeal my decision to the General Counsel of the National Labor Relations Board, through the Office of Appeals.

Means of Filing: An appeal may be filed electronically, by mail, by delivery service, or hand-delivered. To file electronically using the Agency's e-filing system, go to our website at www.nlr.gov and:

- 1) Click on E-File Documents;
- 2) Enter the NLRB Case Number; and,
- 3) Follow the detailed instructions.

Electronic filing is preferred, but you also may use the enclosed Appeal Form, which is also available at www.nlr.gov. You are encouraged to also submit a complete statement of the facts and reasons why you believe my decision was incorrect. To file an appeal by mail or delivery service, address the appeal to the **General Counsel at the National Labor Relations Board, Attn: Office of Appeals, 1015 Half Street SE, Washington, DC 20570-0001**. Unless filed electronically, a copy of the appeal should also be sent to me.

The appeal MAY NOT be filed by fax or email. The Office of Appeals will not process faxed or emailed appeals.

Appeal Due Date: The appeal is due on **September 13, 2019**. If the appeal is filed electronically, the transmission of the entire document through the Agency's website must be completed **no later than 11:59 p.m. Eastern Time** on the due date. If filing by mail or by delivery service an appeal will be found to be timely filed if it is postmarked or given to a delivery service no later than September 12, 2019. **If an appeal is postmarked or given to a delivery service on the due date, it will be rejected as untimely.** If hand delivered, an appeal must be received by the General Counsel in Washington D.C. by 5:00 p.m. Eastern Time on the appeal due date. If an appeal is not submitted in accordance with this paragraph, it will be rejected.

Extension of Time to File Appeal: The General Counsel may allow additional time to file the appeal if the Charging Party provides a good reason for doing so and the request for an extension of time is **received on or before September 13, 2019**. The request may be filed electronically through the *E-File Documents* link on our website www.nlr.gov, by fax to (202)273-4283, by mail, or by delivery service. The General Counsel will not consider any request for an extension of time to file an appeal received after September 13, 2019, **even if it is postmarked or given to the delivery service before the due date**. Unless filed electronically, a copy of the extension of time should also be sent to me.

Confidentiality: We will not honor any claim of confidentiality or privilege or any limitations on our use of appeal statements or supporting evidence beyond those prescribed by the Federal Records Act and the Freedom of Information Act (FOIA). Thus, we may disclose an

appeal statement to a party upon request during the processing of the appeal. If the appeal is successful, any statement or material submitted with the appeal may be introduced as evidence at a hearing before an administrative law judge. Because the Federal Records Act requires us to keep copies of case handling documents for some years after a case closes, we may be required by the FOIA to disclose those documents absent an applicable exemption such as those that protect confidential sources, commercial/financial information, or personal privacy interests.

Very truly yours,



Terry Morgan
Regional Director

ESC/sr

Enclosure

cc: **(b) (6), (b) (7)(C)**
Local 223, Utility Workers Union of
America (UWUA), AFL-CIO
15160 Commerce Drive, North
Dearborn, MI 48120-1225

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Gerard M. Anderson, CEO
DTE Energy Company
Belle River Power Plant
4505 King Road
China Township, MI 48054

UNITED STATES OF AMERICA
NATIONAL LABOR RELATIONS BOARD

APPEAL FORM

To: General Counsel
Attn: Office of Appeals
National Labor Relations Board
1015 Half Street SE
Washington, DC 20570-0001

Date:

Please be advised that an appeal is hereby taken to the General Counsel of the National Labor Relations Board from the action of the Regional Director in refusing to issue a complaint on the charge in

Case Name(s).

Case No(s). *(If more than one case number, include all case numbers in which appeal is taken.)*

(Signature)



UNITED STATES GOVERNMENT
NATIONAL LABOR RELATIONS BOARD
OFFICE OF THE GENERAL COUNSEL
Washington, DC 20570

December 23, 2019

(b) (6), (b) (7)(C)

Local 223, Utility Workers Union of
America (UWUA), AFL-CIO (DTE Energy
Company)
Case 07-CB-236731

Dear (b) (6), (b) (7)(C)

Your appeal from the Regional Director's refusal to issue complaint has been carefully considered. The appeal is denied substantially for the reasons in the Regional Director's letter of August 30, 2019.

You alleged that the Union violated Section 8(b)(1)(A) of the National Labor Relations Act by failing to fairly represent you. Specifically, you alleged the Union refused to file a grievance over the Employer allegedly deducting money from your pay after management changed codes to sick when neither the employee nor doctors requested such action; failed to provide you with notes concerning your (b) (6), (b) (7)(C) and workplace incident; allowed the Employer to violate your seniority rights in a variety of ways and making excuses for the Employer's actions; allowed the Employer to force you out of your job classification; and refused to make corrections to actions that stripped away your seniority, experience, and qualifications that allowed less senior employees to work. A review of the evidence, however, disclosed insufficient evidence to establish a violation.

While a union owes employees a duty of fair representation about disputes arising with an employer, a union is also afforded a wide range of reasonableness in carrying out this duty and a breach occurs only when the union's conduct is based upon arbitrary, irrelevant or discriminatory considerations. See *Vaca v. Sipes*, 386 U.S. 171 (1967); *Ford Motor Co. v. Huffman*, 345 U.S. 330 (1953). In this case, the investigation did not establish that the Union handled your grievance(s) in an unlawful manner. Rather, the evidence indicated that the Union filed appropriate grievances, worked with you and the Employer. The investigation also disclosed the Employer provided you with information that existed and kept in regular

communication with you to assist you with your various problems. In these circumstances, the evidence fails to establish that the Union's assessment/processing of your grievances was based upon any unlawful considerations.

Accordingly, we deny the appeal and the case is closed.

Sincerely,

Peter Barr Robb
General Counsel



By: _____

Mark E. Arbesfeld, Director
Office of Appeals

cc: TERRY MORGAN
REGIONAL DIRECTOR
NATIONAL LABOR RELATIONS
BOARD
PATRICK V. MCNAMARA FEDERAL
BUILDING
477 MICHIGAN AVE RM 05-200
DETROIT, MI 48226

GERARD M. ANDERSON, CEO
DTE ENERGY COMPANY
BELLE RIVER POWER PLANT
4505 KING ROAD
CHINA TOWNSHIP, MI 48054

(b) (6), (b) (7)(C)
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UNION OF AMERICA (UWUA),
AFL-CIO
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